

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID SCHOTTENSTEIN,

Defendant.

Case. No.: 1:22-CR-10005-DPW

ASSENTED TO MOTION TO MODIFY CONDITIONS OF RELEASE

Defendant David Schottenstein respectfully moves this Court to modify the conditions of his pre-sentence release (Dkt. 14) with respect to drug testing in order to allow Defendant (an orthodox Jew) to continue to observe the Jewish holidays.

The following grounds support this motion:

On February 1, 2022, the Defendant appeared before this court and pled guilty to one count of conspiracy to commit securities fraud, in violation of Title 18, United States Code, Section 1349.

Defendant's current conditions of release (Dkt. 14) mandate that Defendant participate in an "alcohol/substance use evaluation and participate in all recommended treatment." As part of those conditions, pretrial services officers in Florida have required Defendant to call a phone number every day to determine if he has been selected for drug testing. If he's selected, he must then report (in-person) to Pretrial Services for drug testing.

Defendant, however, is a member of the Orthodox Jewish community. His longstanding religious observances, therefore, do not permit the use of telephones, electricity, or to drive on the Sabbath and other major Jewish holidays. To that end, Defendant asked pretrial services to

relieve him of the obligation to call and/or drive on the Jewish Sabbath and the major Jewish holidays. Pretrial Services advised that while they do not oppose the relief, Defendant must seek this relief from the Court.

The limited times Defendant seeks relief from this daily call-in and testing requirement are listed below:

Sabbath: sundown on Friday through nightfall on Saturday;

Passover: April 16-17 and April 22-23, 2022.

Shavuot: June 5-6, 2022.

Rosh Hashana: September 26-27, 2022

Yom Kippur: October 5, 2022

Sukkot, Simchat Torah, and Shemini Atzeret: October 10-11, 17-18, 2022.

Accordingly, Defendant requests permission from this Court to both not call in for drug testing and not to report for drug testing on the above-noted religious Jewish holidays. Both the government, through Assistant United States Attorney Seth Kosto, and Pretrial Services, through Officer Mailin Perez, consent to the relief requested herein.

Dated: March 22, 2022

Respectfully submitted,

ROCHE FREEDMAN LLP

/s/ Eric S. Rosen

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Counsel for Defendant David Schottenstein

LOCAL RULE 7.1(A)(2) CERTIFICATION AND CERTIFICATE OF SERVICE

I, Eric S. Rosen, hereby certify that counsel for Defendant David Schottenstein, met and conferred with the Government in an effort to resolve or narrow the issues presented in this motion prior to filing. Counsel for the government consents to the relief requested herein, as does pre-trial services. I further certify, a true and correct copy of the foregoing was filed on the public docket.

/s/ Eric S. Rosen
Eric S. Rosen